



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/778,079	01/02/97	BERALL	J 8361-B

33M1/1015

HART BAXLEY DANIELS & HOLTON
59 JOHN STREET
FIFTH FLOOR
NEW YORK, NY 10038

EXAMINER

TRUONG, K.

ART UNIT

PAPER NUMBER

3309

DATE MAILED:

10/15/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

Art Unit: 3309

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13, lines 1 and 2, the phrase "characterized further in that it is lightweight and portable" is unclear, Applicant need to clarify what is meant by said phrase.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by George (U.S. 5,363,838).

With respect to claims 1-4, George discloses in figures 1-3, a handle (5) and a blade (3) having a proximal end connected to the handle (5), camera means (6,8) mounted on a distal end of the blade (3) (See Col. 4, lines 56 and 57), a display means (13)

Art Unit: 3309

operatively connected to the camera means (6,8) for displaying the visual field at a preselected location, a power supply means (20) for powering the camera means (6,8) and the display means (13), and wherein the power supply means (20) is mounted in the handle (5) (See Col. 5, lines 1-3).

As to claim 5, George discloses in Col. 5, lines 7-10, a display means (13) includes a screen (17) may be simply placed on the patient's chest or on a boom or a mounting pad next to the physician's line-of-sight of the airway, therefore, it is inherently capable of having the display means mounted on the handle (5).

As to claims 6 and 7, wherein the camera means (6,8) are a videocamera and the display means (13) are lightweight.

As to claim 8, wherein the camera means (6,8) are spaced from the distal end of the blade (3), fiberoptic means (15) connected between the camera means (6,8) and the display means (13).

With respect to claim 15, George discloses in figures 1-3, a handle (5) for an intubator to grasp in the first hand, a blade (3) with a proximal end connected to the handle (5) and a distal end extending laterally therefrom for insertion into a patient's mouth; camera means (6,8) mounted in the vicinity of the distal end of the blade (3) for observing a visual field that includes the patient's trachea opening and other oral internal structures.

Art Unit: 3309

As to claim 16, George's laryngoscope is capable of providing the method steps as claimed.

An anticipation under 35 U.S.C. 102(b) or 102(e) is established when a single prior art reference discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 USPQ 385 (Fed. Cir. 1984).

It is well settled that the law of anticipation does not require that the reference teach what appellant is teaching or has disclosed, but only that the claims on appeal "read on" something disclosed in the reference, i.e. See Kalman v. Kimberly Clark corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1083). Moreover, it is not necessary for the applied reference to expressly disclose or describe a particular element or limitation of a rejected claim word for word as in the rejected claim as long as the reference inherently discloses that element or limitation. See, for example, Standard Havens Products Inc. v. Gencor Industries Inc., 953 F.2d 1360, 21 USPQ2d 1321 (Fed. Cir. 1991).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3309


Upsher (U.S. 4,592,343) discloses an improved laryngoscope having a blade which is curved and tubular and has an improved light means for illuminating the forward end of the blade.


Ough (U.S. 5,263,472) discloses an improvement for laryngoscope blades.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Truong whose telephone number is (703) 308-3767. The examiner can normally be reached Monday through Friday from 7:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Michael Buiz can be reached at (703) 308-0871. The fax number for the Group is (703) 308-0758.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-0858.


Kevin T. Truong
October 01, 1997


MICHAEL BUIZ
SUPERVISORY PATENT EXAMINER
GROUP 3300
10/01/97